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 11 BRAVE NEW FILMS 501(c)(4)

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 SAN FRANCISCO DIVISION
 15

16 BRAVE NEW FILMS 501(C)(4),
 17 Plaintiff,
 18 v.
 19 MICHAEL WEINER aka MICHAEL SAVAGE,
 and ORIGINAL TALK RADIO NETWORK,
 20 INC.,
 21 Defendants.

No. CV 08-04703 SI

**DECLARATION OF JAMES GILLIAM
 IN SUPPORT OF PLAINTIFF BRAVE
 NEW FILMS' MOTION FOR
 PARTIAL SUMMARY JUDGMENT**

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1 I, James Gilliam, declare:

2 1. I am Vice-President Technology at Brave New Films 501(c)(4) (“Brave New
3 Films”). This declaration is submitted in support of PLAINTIFF BRAVE NEW FILMS’
4 MOTION FOR PARTIAL SUMMARY JUDGMENT. If called as a witness I would and could
5 testify to the following:

6 2. In January 2008, Brave New Films created a one minute, twenty-three second
7 video, entitled “Michael Savage Hates Muslims” (“the Video”), and posted it on Brave New
8 Films’ website.¹

9 3. Brave New Films also posted the Video on its YouTube channel, which includes
10 hundreds of other Brave New Films videos, nearly all focusing on politics and social issues.

11 4. Brave New Films videos have been viewed millions of times on YouTube.

12 5. The Video features excerpts from Savage’s October 29, 2007, lists several of his
13 advertisers, and urges the viewer to speak out against Savage and help “fight the bully” at
14 www.nosavage.org.

15 6. Brave New Films created the Video and launched the website,
16 www.nosavage.org, to inform the public about Savage’s hateful views by showing the Video and
17 providing information about how to contact advertisers and ask them to remove ads from
18 Savage’s radio show. The website also includes information about Savage’s retaliatory lawsuit
19 against CAIR and criticizes his attempt to censor CAIR by suing the group for copyright
20 infringement.

21 7. Since it was posted on YouTube, “Michael Savage Hates Muslims” has been
22 viewed more than 150,000 times.

23 8. On September 29, 2008, about two months after this Court dismissed Savage’s
24 copyright claim against CAIR on fair use grounds, attorneys for Savage’s radio network
25

26 ¹ Attached to Brave New Films’ Complaint For Declaratory Judgment and Damages as Exhibit B
27 is a true and correct copy of the Video. Exhibit B was filed with the Court and served on all
28 parties along with the Complaint.

1 delivered a letter to YouTube, Inc. ("YouTube"), addressed to YouTube's "DMCA Complaints"
2 department.

3 9. Upon receiving the September 29, 2008 takedown letter from Original Talk Radio
4 Network ("OTRN"), YouTube disabled access to the Video. YouTube also disabled access to
5 Brave New Films' entire YouTube channel.

6 10. YouTube disabled access at approximately 9 p.m. on October 2, 2008 – a critical
7 time for Brave New Films, because among other things, Brave New Films is very active in
8 national politics. It was running a full-page ad the next morning in the New York Times calling
9 for presidential candidate Senator John McCain to make a full and public release of his health
10 records.

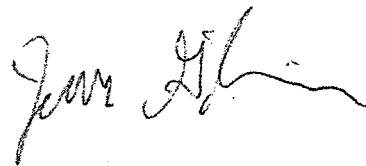
11 11. Brave New Films' lawyers convinced YouTube to restore Brave New Films'
12 channel in the afternoon of October 3, 2008. The entire channel was down as the New York
13 Times was being delivered to customers across the country, particularly on the east coast.

14 12. On October 3, 2008, Brave New Films submitted a counter-notice to YouTube,
15 explaining that the Video was removed in error. Attached hereto as Exhibit A is a true and
16 correct copy of the counter-notice.

17 13. The Video remained inaccessible on YouTube for eighteen days, until it was
18 restored pursuant to YouTube's policies on October 20, 2008.

19 I declare under penalty of perjury on this 27th day of February in Los Angeles,
20 California under the laws of the United States of America and the State of California that the
21 foregoing is true and correct.

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By: _____
James Gilliam